

## REMARKS

In the Office Action of January 16, 2009, claims 7, 9 and 10 stand rejected under 35 U.S.C. §112, first paragraph, for not providing sufficient written description relating to immunogenic fragments.

With the present amendments to the claims, references to immunogenic fragments have been canceled without prejudice or disclaimer. Accordingly, it is believed that with the present amendments this objection is rendered moot.

Claims 7, 9 and 10 stand rejected under 35 U.S.C. §112, second paragraph, for being indefinite. The Examiner objected to the statement "amino acid sequence depicted in SEQ ID NO: 2" for being vague and unclear. Examiner has kindly suggested that the claim would better be stated using the phrase "amino acid sequence comprising SEQ ID NO: 2." Claim 7 has been amended accordingly.

Claim 7, 9 and 10 stand rejected under 35 U.S.C. § 102(e) for anticipation by Bolton et al. Bolton et al is relied on for teaching isolated immunogenic proteins from *Streptococcus*, including *Streptococcus uberis*, for immunization of dairy cows. The *Streptococcus uberis* protein is said to comprise an amino acid sequence of 1-336 amino acids and Bolton et al is said to recite immunogenic amino acid fragments comprising at least 5 amino acids. The Examiner concluded that the immunogenic fragment of at least 33 amino acids would be inherent in the proteins taught by Bolton, et al.

With the present amendments, all references to the immunogenic fragments of the claimed protein have been canceled. Accordingly, it is believed that the rejection over Bolton, et al is rendered moot.

In view of the above, it is believed that claims 7, 9 and 10, all claims in the application, are in condition for allowance. Favorable action is solicited. Should the Examiner consider that

a conference would be helpful in advancing the prosecution of this application, he is invited to telephone Applicants' attorney at the number below.

Applicants do not believe that any other fee is due in connection with this filing. If, however, Applicants do owe any such fee(s), the Commissioner is hereby authorized to charge the fee(s) to Deposit Account No. **02-2334**. In addition, if there is ever any other fee deficiency or overpayment under 37 C.F.R. §1.16 or 1.17 in connection with this patent application, the Commissioner is hereby authorized to charge such deficiency or overpayment to Deposit Account No. **02-2334**.

Applicants submit that this application is in condition for allowance, and request that it be allowed. The Examiner is requested to call the Undersigned if any issues arise that can be addressed over the phone to expedite examination of this application.

Respectfully submitted,



William M. Blackstone, PTO Reg. No. 29,772  
Chief Patent Counsel  
Intellectual Property - Animal Health  
Global Law and Public Affairs  
Schering-Plough

Intervet Inc.  
P.O. Box 318  
29160 Intervet Lane  
Millsboro, Delaware 19966-0318  
United States

(302) 934-4317 (tel)  
(302) 934-4305 (fax)

WMB:dap